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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

Report of the Secretary-General

1. The present report is submitted pursuant to General Assembly resolution 49/236 B of 14 September 1995, in which the Assembly decided to authorize the renewal of the mandate of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) for a further period of six months until 18 March 1996, and requested me, inter alia, to keep the Assembly fully informed of the implementation of the resolution.

2. My latest report to the General Assembly on the situation in Central America covered developments related to the role of the United Nations in the Guatemala peace process until October 1995 (A/50/499 of 3 October 1995, paras. 34-41). In particular, I referred to the negotiations between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) on the item entitled "Socio-economic aspects and agrarian situation", under discussion since April 1995. Progress has been slow, even though the parties agreed in August 1995 to intensify their negotiations and, to that effect, met every other week throughout the remainder of the year. Talks continued after the first round of the general elections, held on 12 November. On 15 December, the parties decided to interrupt negotiations. In order to facilitate resumption of the negotiations once a new Government had been elected, they approved a working document recording progress made since April 1995 as well as outstanding differences.

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3. The winner of the presidential elections, Alvaro Arzú, reiterated on the day of his inauguration the pledge he had given as a candidate to continue negotiations with the URNG. As part of his commitment to the peace process, he has also expressed the commitment of his Government to implementation of agreements already reached with the URNG and his unequivocal support to the continued presence of MINUGUA. Discreet contacts between the leadership of the URNG and candidate Arzú and his advisers, which began on the eve of the second round of the elections, proceeded after the elections until mid-February. The United Nations was apprised of the contents of these talks when the Under-Secretary-General for Political Affairs, Mr. Marrack Goulding, accompanied by the Moderator of the peace talks, Mr. Jean Arnault, met separately with the two parties between 23 and 25 January. Both parties reaffirmed their commitment to the Framework Agreement of 10 January 1994 (A/49/61-S/1994/53, annex) and expressed the wish to resume negotiations at an early date and to reach promptly a final peace agreement. Following consultations with both parties, the United Nations convened a new round of negotiations on 22 and 23 February at Mexico City.

4. During the reporting period, MINUGUA continued to fulfil the verification mandate entrusted to it in the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I) and to assist in strengthening national institutions and entities responsible for the protection of human rights. By my note of 12 October 1995 (A/50/482), I transmitted to the General Assembly the third report of the Director of MINUGUA, covering the period from 21 May to 21 August 1995. Like previous reports, the third report was well received both in Guatemala and abroad. Before consideration by the General Assembly of the renewal of the mandate of MINUGUA, the Director of the Mission will be submitting his fourth report, covering the period from 21 August to 31 December 1995, as well as a detailed analysis of the parties' compliance with their commitments under the Comprehensive Agreement on Human Rights and with human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex) since the installation of the Mission on 21 November 1994.

5. From that date until 31 December 1995, the Mission has received over 7,700 complaints, of which 1,567 were considered admissible. Approximately 69 per cent of these cases have been fully verified, which led the Mission to confirm the existence of human rights violations in 43 per cent of admissible cases. Based on the results of verification activities, the Mission concludes that serious and repeated violations of human rights have continued to occur and that these have been neither clarified nor punished. The majority of them were due to actions by State agents or groups connected to the State, or were the outcome of the State failing in its duty to ensure its citizens' security. It does not, however, appear that such violations are consequences of a government policy to abuse human rights. Through its verification activities, MINUGUA also ascertained that, in the context of the armed conflict, serious human rights violations and failure to prevent civilian suffering had occurred, owing, in particular, to URNG actions.

6. The Mission confirms that impunity has been the main obstacle to the enjoyment of human rights and that its persistence is due to the absence of a State policy to combat it. Continuing impunity has prevented the

individualization and punishment of those responsible and has increased the public's lack of confidence in the administration of justice. This failure is fundamentally a government responsibility. The Mission has also found that underlying the problem of impunity is a nexus of factors that tends to suppress the willingness to investigate and to punish serious crimes and human rights abuses, in particular when military and police personnel are implicated. Among these factors are illegal groups, in which State agents sometimes participate, or which may be enjoying State agents' support or protection and which commit murders, kidnappings and other serious crimes. Overall, the Mission observes that both the Government of Guatemala and the URNG are, by action or by omission, responsible for failure to comply with their commitments under the Comprehensive Agreement on Human Rights.

7. MINUGUA has also noted that positive steps have been taken by the Government and the URNG towards compliance with several commitments included in the agreement. Concerning the Government, steps taken under the presidency of Ramiro de León Carpio include the near-cessation of forcible recruitment for military service; restraint in the use of force by the authorities; refraining from encouraging the establishment of new Voluntary Civil Defence Committees; dissolution of the Military Commissioners; observation of legal requirements in the detention of several URNG members and referring them to tribunals; an increased willingness to investigate crimes on the part of the Interior Ministry; and the guarantees provided by the Government to MINUGUA in the implementation of its mandate. Concerning the URNG, these steps include fulfilling the pledge to refrain from sabotaging power lines; a recent trend towards restraint in military actions in order to avoid unnecessary risks and damage to civilians; the unilateral cessation of offensive actions during the two rounds of the elections; and cooperation with the Mission. While noting these steps, the Mission also observes that their impact on public opinion has been severely limited because of an increase in crime and the inability of government institutions to cope with it, as well as the continuation of the armed conflict.

8. In conclusion, I must reiterate that it is incumbent upon the parties to comply fully with their commitments under the Comprehensive Agreement on Human Rights and with human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples, which they have requested the United Nations to verify. In that context, it is critical that the Government of Guatemala and the leadership of the URNG take action to carry out the recommendations of the Mission, which have too often remained unheeded. At stake is the confidence of the Guatemalan people and the international community at large in the peace process and in the undertakings given by the parties. It is also essential that the peace negotiations be brought to an early and successful conclusion as the continuation of the conflict provides pretexts for human rights abuses and a culture of violence and intolerance, which thwart efforts, including those of MINUGUA, to protect human rights and strengthen the rule of law.

9. While the record of compliance with the commitments regarding human rights is not satisfactory and should be improved, trends observed since the resumption of the peace process between the Government of Guatemala and the URNG under United Nations auspices in 1993 and the installation of MINUGUA are encouraging. Despite their slow pace, the peace negotiations have resulted in several

important agreements and strengthened the conviction that peace is imperative. Widespread support for the negotiations was made evident by the isolation of sectors that attempted to challenge the constitutionality of the peace process in late 1995. Democratic institutions have gained strength and widened their appeal, as exemplified by the call by the URNG to vote in the general elections and the integration of new political forces into Congress. The dissolution of the Military Commissioners endorsed by Congress and the publicly stated willingness of the URNG to join the political and electoral contest are among several signs of a gradual demilitarization of political life. Measures taken by the Government of President Arzú in the first weeks of its mandate are other bold steps in that direction. The active country-wide presence of MINUGUA has played an important part in this promising evolution. In particular, it has helped to place peace and the protection of human rights firmly at the top of the political agenda.

10. I should like to pay tribute to the Director of the Mission, Mr. Leonardo Franco, and his staff for this achievement. I am convinced that, through the verification and institution-building activities of the Mission, the international community will continue to play a very significant role in promoting the protection of human rights and the settlement of the last armed conflict in Central America. In that context, I should like to express my appreciation for the support received from the States that make up the Group of Friends of the Guatemala peace process, as well as from those Member States that have contributed generously to the Trust Fund for the Guatemala peace process.

11. On the basis of these considerations, together with the support for the continuation of the activities of MINUGUA expressed both by the Government of Guatemala and the URNG, as well as by broad sectors of Guatemalan society, I recommend that the General Assembly authorize the renewal of the mandate of MINUGUA for a further period of 9 months and 13 days, that is, until 31 December 1996. This extended period will assist the budgetary process by making the new mandate coterminous with the calendar year.

12. In its resolution 50/216 of 23 December 1995, the General Assembly decided to authorize the Secretary-General to enter into commitments not exceeding a monthly level of $2,329,700 should the mandate of the Mission be extended beyond 31 March 1996. I should however like to call the attention of Member States to the fact that given the decisions on the programme budget for the biennium 1996-1997 adopted by the Assembly in its resolution 50/215 and given the cash-flow crisis that continues to afflict the Organization, it would be necessary for the Assembly to appropriate additional funds to cover the costs of MINUGUA for this further mandate period and for there to be assurances that those funds would be made available in the necessary time-frame.